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Salaries -- Judges of Michigan.

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SALARIES—JUDGES OF MICHIGAN.

MARCH 17, 1830.

Mr. ANGEL, from the Committee on the Territories, to which the subject had been referred, made the following

REPORT:

The Committee on the Territories, to which was referred the resolution of the 15th of January last, instructing them to inquire into the expediency of increasing the salaries of the Judges of the Territory of Michigan, report:

That an inquiry into the subject presented by the resolution, has led to an examination of the laws which have been enacted concerning the courts of Michigan, and a comparison of the duties of the judges with those in other Territories, and in the States.

The act of Congress, to divide the Indian Territory into two separate governments, which was approved January 11, 1805, established a government within the Michigan Territory, in all respects similar to that provided by the ordinance for the government of the Territory Northwest of the river Ohio, passed July 13, 1787, and by the act to give effect to the ordinance after the adoption of the Constitution of the United States, approved August 7, 1789. It is a provision of this ordinance, "that there shall be appointed a court to consist of three judges, any two of whom to form a court;" and this continued unchanged until the year 1823.

That part of the Territory of Illinois which was not embraced within the limits of the State on her admission, was attached to Michigan, for the purpose of temporary government, on the 18th day of April, 1818. This extended the boundaries of Michigan from the middle of Lake Michigan, Westwardly, to the Mississippi river, and, Northwardly, to the Lake of the Woods; and the inhabitants of that remote region were liable to be prosecuted, in all capital cases, in the Supreme Court, which held its sessions at Detroit, and had *exclusive* cognizance of all cases in which the punishment was death. They could be brought to that place, and before that tribunal, in all civil actions in which the amount in controversy exceeded the sum of one hundred dollars.

From this dangerous and distressed situation, they were, in some degree, relieved by the act of January 30, 1823, which authorized the appointment of an additional judge for the country inhabited by them, and which was embraced within the limits of the counties of Michilimackinac, Brown, and Crawford, by the proclamation of the Governor, issued that year. To the court thus established, was given *the jurisdiction of the Supreme and County Courts*, except of cases of admiralty and maritime jurisdiction; and, also,

in cases in which the United States are plaintiff, and which do not arise within the limits of the Indian country.

The ordinance established a *court* for the Territory, and gave to it a common law jurisdiction.

The *Supreme Court* of Michigan is created by an act of the Legislature of that Territory. The act declares, that this court shall be held by the judges appointed by the President, pursuant to the ordinance. As a territorial court, its duties have been greatly multiplied within a few years. Since the judges have been required to hold *Circuit Courts*, they are constantly employed. Two terms of these courts are held annually in seven counties, and at each term *two* of the judges must be present. In performing this service, they are compelled to travel to places remote from the seat of Government, through a country which has been settled but a short time, and upon roads which are frequently almost impassable.

This court is invested with a *chancery*, as well as common law, jurisdiction. It is a Supreme Court of *Probate*; and a court of errors, and appeals in chancery, to the courts held by the additional judge.

Another branch of their jurisdiction is conferred by the act of March 3, 1805, which provides, that the superior courts of the several Territories of the United States, in which a district court has not been established by law, shall, in all cases in which the United States are concerned, have, within their respective Territories, the same jurisdiction and powers as are by law given to the District Court of the Kentucky district; and the act of September 24, 1789, gave that court jurisdiction of all causes cognizable before a *Circuit Court*, except of appeals and writs of error.

Two terms of the court, sitting as a Supreme Court, and as a Circuit and District Court of the United States, are held annually at Detroit; and, in addition, it is believed that special sessions are occasionally deemed necessary to enforce these several jurisdictions.

The tenure of office of the judges in Michigan was fixed by the ordinance which declared that their commissions should continue in force during good behavior. This tenure was changed by the act of March 3, 1823, and limited to four years.

That their duties are difficult, arduous, and important, there can be no doubt. When the court was first appointed, the population of the Territory could not have exceeded 4,000 souls; it is believed it may now be justly estimated at from 30 to 40,000. The commerce and general trade of the country has also been greatly extended and increased. If the judges' salaries, which were fixed at \$12 per annum, were at that time deemed a proper compensation, there cannot be the slightest objection to an increase, at least in proportion to their labors. To this they would be entitled, if an equalization should be made of the salaries of the judges of the United States in the several States and Territories.

Your committee are therefore satisfied that the salaries of the judges in Michigan ought to be increased; and for that purpose they ask leave to report a bill.

WASHINGTON, March 7th, 1830.

SIN: A statement of the duties of the Supreme Court of Michigan, when it was established, and at the present time, will furnish the most satisfactory

answer to the questions which you have submitted to me, which it is in my power to give.

On the organization of the Territorial Government of Michigan, in 1805, a Supreme Court was created by an act of the Governor and judges, and it was declared that the court should consist of the Judges appointed and commissioned for the Territory by the President of the United States. Their salaries were fixed at twelve hundred dollars per annum. Their jurisdiction, as a United States' Court, was the same as that of the Kentucky District. They were required to hold *one* term annually at Detroit, the seat of Government of the Territory, and their place of residence. Several ineffectual attempts were made to compel them to hold Circuit Courts in the counties which were set off from the county of Wayne, soon after they were organized; but it was denied that such a power had been delegated by Congress to the Territorial Legislature. The *tenure of office* of these judges was during good behavior, as prescribed by the ordinance of Congress of 1787; but an act was passed by Congress in 1823, which declared, that, on the first day of February, 1824, *this* tenure should cease, and be determined; and that, thereafter, it should be limited to *four years*.

On the 30th of January, 1823, an act was passed to provide for the appointment of an additional judge for the Michigan Territory, in the counties of Mackinaw, Brown, and Crawford, which embraced the whole country situated between Lakes Huron, Superior, and Michigan, and the Mississippi river. He was required to hold terms of the courts at three places—the Island of Michilimackinac, Green Bay, and Prairie du Chien. His jurisdiction was that of the Supreme and County Courts, and his salary fixed at \$1200 per annum. In performing his duties, he travels thirteen hundred and sixty miles by water, and usually in a birch bark canoe.

Authority was given to the Legislative Council, by an act passed on the 29th of January, 1827, to establish a circuit or *nisi prius* system. The Judges of the Supreme Court are, therefore, now required by law to hold terms in the peninsular counties; all of which, except the county of Wayne, have been created since the court. It is understood, that, at these terms, at least *two* of the judges must be present. The following table will show how greatly their duties and labors have been increased within a few years:

Circuit Courts are held in

Wayne county,	two terms in each year, at Detroit.			
Monroe,	do	do	36 miles	from Detroit.
Washtenaw,	do	do	37	do
Lenauwee,	do	do	70	do
Macomb,	do	do	24	do
Oakland,	do	do	30	do
St. Clair,	do	do	70	do

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$267 \times 2 = 534 \times 2 = 1068$

miles travelled per annum,

They are likewise required to hold two terms in each year, at Detroit, of the Supreme Court of the Territory, and as a Circuit and District Court of the United States, to hear and determine the cases removed by writs of error from the circuits, from the courts held by the additional judge, and from the Probate Courts held by appeal.

J. D. DOTY.

The Hon. WM. G. ANGEL,
Of the Committee on Territories.